

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

- against -

CRIMINAL PRETRIAL
SCHEDULING ORDER

FRANKLIN GILLESPIE,

11-CR-371 (KAM)

Defendant.

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The defendant in the above captioned criminal case having interposed a plea of not guilty, the parties are directed:

1. To **APPEAR** with counsel ready to **SELECT A JURY** on **October 24, 2011 at 9:00 a.m.** before Magistrate Judge James Orenstein in Courtroom 11D South, United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York.

2. To **APPEAR** with counsel ready **TO TRY THE CASE** on **October 31, 2011 at 9:00 a.m.** in Courtroom No. 4E on the 4th Floor, United States Courthouse (Old Building), 225 Cadman Plaza East, Brooklyn, New York.

3. To **SERVE** and **FILE** all defense pre-trial motions, including but not limited to motions to suppress, in accordance with the following schedule: (a) the moving party shall file its motion by **September 15, 2011**; (b) the opposing party shall file its response by **September 23, 2011**; and (c) the moving party shall file its reply, if any, by **September 27, 2011**.

4. To **SERVE** and **FILE** all of the government's pre-trial motions, including but not limited to motions pursuant to Fed. R. Evid. 404(b), in accordance with the following schedule: (a) the moving party shall file its motion by **September 15, 2011**; (b) the opposing party shall file its response by **September 23, 2011**; and (c) the moving party shall file its reply, if any, by **September 27, 2011**.

5. To **APPEAR** with counsel who is to try the case at a **FINAL PRETRIAL CONFERENCE** on **October 20, 2011 at 10:00 a.m.**

(a) **Before the pretrial conference, and no later than October 7, 2011**, each party shall **EXCHANGE** and **FILE** with the Court via ECF:

(i) a LIST OF EXHIBITS;

- (ii) a LIST OF PERSONS, including attorneys; CORPORATIONS; INSTITUTIONS; PLACES; and SCIENTIFIC, TECHNICAL or COLLOQUIAL TERMS that will be present or referred to by counsel or witnesses during the trial, for the use of the Court in questioning prospective jurors and to assist the court reporter in recording the proceedings;
- (iii) VOIR DIRE requests;
- (iv) PROPOSED VERDICT FORMS, SPECIAL VERDICT FORMS, AND PROPOSED SPECIAL INTERROGATORIES, if applicable;
- (v) REQUESTS TO CHARGE OR ANY OBJECTIONS to same; and
- (vi) A JOINT STATEMENT OF THE CASE AND ANY STIPULATIONS OF FACT OR NOTICES OF OBJECTIONS to authenticity of documents.

(b) Before the pretrial conference, each party shall:

- (i) **PHYSICALLY MARK** for identification (*e.g.*, GX. 1^{ID}, DX A^{ID} followed by the docket number), using exhibit tabs supplied by the Court, each item of physical or documentary EVIDENCE which the party intends to offer in evidence at trial, including any learned treatises or publications to be introduced pursuant to Federal Rule of Evidence 803(18);¹
- (ii) If TRANSCRIPTS are to be used either as substantive evidence or aids to the jury, a single copy shall be appropriately marked by all parties to indicate (i) portions to be read, and (ii) portions objected to; and
- (iii) Make every effort to enter into STIPULATIONS OF FACT, including stipulations as to the authenticity of all documents intended to be offered in evidence at trial; give notice as to all objections to authenticity so as to permit the adversary to have available at trial all necessary foundation witnesses.

¹If any party wishes to present marked exhibits to the jury in digital form, the parties are directed to meet with the Chief Deputy Clerk for Automation Services and my case manager at least 20 days prior to the commencement of the trial to review the available equipment in Courtroom 4E for the presentation of digital evidence and to determine what equipment the court can provide and what equipment the parties must provide. Counsel should be accompanied by the audio-visual personnel who will be operating any equipment that will be used at trial. Not later than 7 days before the commencement of trial, or by **October 24, 2011**, the parties shall file a confirmation in writing via ECF that this meeting has occurred and a general outline of the understandings reached.

(c) At the pretrial conference, each party shall:

- (i) **BRING FOR INSPECTION** and **EXCHANGE** with opposing counsel all exhibits marked for identification, including any disc upon which the exhibits have been recorded in digital form, if the party intends to present the evidence at trial digitally; and
- (ii) **PROVIDE** the Court with two courtesy copies of each party's pre-marked exhibits.

6. **No later than October 7, 2011**, counsel for the government shall **PROVIDE** all material required to be produced at trial pursuant to 18 U.S.C. § 3500, appropriately marked for identification (*e.g.*, GX 3500-1^{ID}) to defense counsel and two courtesy copies to Chambers.

7. Defendants in criminal cases are required to appear at all stages of the proceedings, including the return dates of motions, hearings, pretrial conferences and trial, unless excused by the Court with the consent of the Government. Failure to comply with this provision may result in revocation of bail.

SO ORDERED.

Dated: Brooklyn, New York
September 6, 2011

/s/
Hon. Kiyo A. Matsumoto
United States District Judge